

CLOSING REMARKS FOR APS RATE CASE JUNE, 2007

APS has pushed this Commission over the past two years to adopt a results-based, forward-looking, company-risk-free approach to ratemaking. I believe we must resist results-based ratemaking.

We shouldn't allow ourselves to be lured into a parallel and unconstitutional world of ratemaking that AAPS seems intent on creating.

If you think of a rate case like a target—with a series of concentric circles and a bull's eye in the middle, APS is asking us to take the current bull's eye, which is cost of service and rate of return regulation, and replace it with the judgments of Standard and Poor Fitch and Moody.

This case is also about a loss of trust.

- APS said it would exceed the RES, then it sought to prevent their adoption.
- APS said this case was about fuel costs. Then in the middle of the case, it said it was about construction costs.
- APS said the Commission should look to Hope to decide the Cost of Capital question, but didn't tell the Commission the Hope has been overturned by Simms.
- APS filed its direct rate case, and then, ___ months into the case asked for three revenue enhancements that had never been vetted by Staff or RUCO or any of the other parties.
- APS was told in the last rate case that it could not seek lost revenues from DSM programs, but forged ahead and asked for lost revenues in this case anyway.

The Order represents the fait accompli of regulatory risk-shifting.

First the Commission gave APS an adjustor mechanism with a surcharge mechanism. But that wasn't enough for APS. So they came back and asked us to eliminate the cap on the total fuel costs. We eliminated the cap. But that wasn't enough either. APS wanted

consumers to bear even more risk. So they came back to the Commission and asked to eliminate the 90-10 sharing agreement, so that customers would have to pay for 100% of gas costs. But that wasn't enough either. APS also asked to eliminate the 4 mil lifetime limitation on the Mil bandwidth, to make a 4 mil annual bandwidth.

The evidence in the case simply did not demonstrate what APS claimed 00 that its future costs will exceed its revenues under Staff's proposal or the Judge's recommendation. The exhibits offered by APS, including Exhibit 77, are one-sided: they portray APS' projected capital expenditures, but don't portray the savings that APS will see associated with economies of scale, improved management of the company, or the leveling affect that occurs when you have more customers available to cover your costs, as APS clearly will have.

Moreover, APS has been given an adjustor mechanism that, in addition to recovering gas costs, includes a demand charge component, which means that as new infrastructure or capacity demands are placed on APS, those demands are also covered at least to some degree through the PSA. Before today, we have never allowed demand charges into an adjustor.

And now in this order, amazingly, APS is also getting something that it didn't even ask for. They get an Adjustor that allows them to recover gas costs without any limits, at all. This Adjustor Mechanism needs a name: I would suggest we call it the RAP—Revenue Assurance Plan for APS.

In the midst of asking its ratepayers to pay an additional \$450 million, APS has continued to spend like every day is Christmas. This year, APS paid out \$120 million? In dividends to shareholders, having increased its dividend each year for 12 years running; APS has spent millions on advertising at baseball parks and football venues; and the Company paid out millions of dollars in bonuses to top executives, during a year in which its nuclear power plant sank to being the worst performing of its kind in the nation. If APS had chosen to be frugal over the past two years, it could have saved tens of millions of dollars and put that money toward improving its own bottom line.

And there were other ways that APS could have improved its bottom line in order to ease the burden on ratepayers. The Company could have operated its nuclear power plant efficiently. Instead, at a time when other nuclear power plants around the nation are realizing capacity factors in the 90 percent range, APS has allowed numerous

outages to push the efficiency of Palo Verde from 84 percent to 77 percent in the test year. Palo Verde Unit One had a capacity factor of 66 percent, down from 85 percent in 2004.

APS is a venerable, respected company that has been doing business in Arizona since before Arizona was a state. But something is wrong at APS.